

HOUSE BILL 1236

Q6

3lr2389
CF SB 730

By: **Delegates Hixson and A. Miller**

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation and Transfer Taxes – Low Income Housing Projects –**
3 **Controlling Interest**

4 FOR the purpose of establishing the consideration used to calculate the recordation
5 and State and county transfer tax on certain transactions for which a
6 controlling interest is conveyed; providing for the application of this Act; and
7 generally relating to State and county transfer taxes.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – Property
10 Section 12–103(a), 13–203(a), and 13–412
11 Annotated Code of Maryland
12 (2012 Replacement Volume)

13 BY adding to
14 Article – Tax – Property
15 Section 12–103(a–1), 13–203(a–1), and 13–412(c)
16 Annotated Code of Maryland
17 (2012 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Tax – Property**

21 12–103.

22 (a) (1) [The] **EXCEPT AS PROVIDED IN SUBSECTION (A–1) OF THIS**
23 **SECTION, THE** recordation tax rates under this section are applied to each \$500 or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 fraction of \$500 of consideration payable or of the principal amount of the debt secured
2 for an instrument of writing.

3 (2) The consideration:

4 (i) includes the amount of any mortgage or deed of trust
5 assumed by the grantee; and

6 (ii) subject to item (i) of this paragraph, includes only the
7 amount paid or delivered in return for the sale of the property and does not include
8 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on
9 the property.

10 **(A-1) (1) THE RECORDATION TAX RATES UNDER THIS SECTION ARE**
11 **APPLIED TO EACH \$500 OR FRACTION OF \$500 OF CONSIDERATION PAID FOR**
12 **THE CONVEYANCE OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY**
13 **THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL**
14 **REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.**

15 **(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE**
16 **THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE**
17 **PURCHASE OF THE INTEREST.**

18 13-203.

19 (a) (1) Except AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION
20 AND EXCEPT as provided in subsection (b) of this section, the rate of the transfer tax
21 is 0.5% of the consideration payable for the instrument of writing.

22 (2) The consideration:

23 (i) includes the amount of any mortgage or deed of trust
24 assumed by the grantee; and

25 (ii) subject to item (i) of this paragraph, includes only the
26 amount paid or delivered in return for the sale of the property and does not include
27 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on
28 the property.

29 **(A-1) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
30 **THE RATE OF THE TRANSFER TAX IS 0.5% OF THE CONSIDERATION PAID FOR**
31 **THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY**
32 **THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL**
33 **REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.**

1 **(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE**
2 **THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE**
3 **PURCHASE OF THE INTEREST.**

4 13-412.

5 (a) (1) Except **AS PROVIDED IN SUBSECTION (C) OF THIS SECTION**
6 **AND EXCEPT** as provided in paragraph (2) of this subsection, a county transfer tax
7 shall apply to the consideration payable for an instrument of writing.

8 (2) If a county transfer tax applies to mortgages or deeds of trust, the
9 county transfer tax shall apply to the consideration payable or the principal amount of
10 the debt secured for an instrument of writing.

11 (b) **[The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
12 **THE** consideration:

13 (1) includes the amount of any mortgage or deed of trust assumed by
14 the grantee; and

15 (2) subject to item (1) of this subsection, includes only the amount paid
16 or delivered in return for the sale of the property and does not include the amount of
17 any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

18 **(C) (1) A COUNTY TRANSFER TAX APPLIES TO THE CONSIDERATION**
19 **PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY**
20 **ENTITY THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE**
21 **INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT**
22 **PROGRAM.**

23 **(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE**
24 **THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE**
25 **PURCHASE OF THE INTEREST.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2013, and shall be applicable to all instruments of writing recorded or filed on
28 or after July 1, 2013.